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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,183	02/26/2002	Christer O. Andreasson	706737.38	8214
34313 7590 01/23/2008 ORRICK, HERRINGTON & SUTCLIFFE, LLP IP PROSECUTION DEPARTMENT 4 PARK PLAZA SUITE 1600 IRVINE, CA 92614-2558			EXAMINER LIEU, JULIE BICHNGOC	
			ART UNIT 2612	PAPER NUMBER
			MAIL DATE 01/23/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/086,183	ANDREASSON ET AL.	
	Examiner	Art Unit	
	Julie Lieu	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2007 and 26 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 30-70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 30-70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to Applicant's Appeal Brief filed August 30 and October 26, 2007.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 1-10, 30-54, and 60-70 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Engelson et al. (US Patent No. 6,671,563) in view of O'Brien (US Patent No. 5,963,136) and Issacman et al. (US Patent NO. 6,127,928).

Claim 1:

Referring to figs. 1-5, Engelson et al. (hereinafter as Engelson) discloses an apparatus for monitoring administration of medical products to a patient, each of the medical products comprising a bar code tag 182 for storing data related to the respective medical product, the apparatus comprising:

- a. A reader 90 for reading bar code tags associated with a plurality of medical products placed in close proximity to the reader to obtain the data stored in the RFID tags;

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- b. A processor 80 coupled to the reader for processing data obtained from the RFID tags to identify the medical products.

Though the tags in Engelson are not RFID tags, the reference does suggest the use of RFID tags in the example shown in fig. 16 and col. 15 lines 57 to col. 16, line 38. Furthermore, the use of RFID tags and RFID readers in medical administration is well known in the art as taught in O'Brien. See fig. 6 and col. 6, lines 4-19. Therefore, it would have been obvious to one skilled in the art to use RFID tags in the Engelson's system as suggested by the reference itself and as taught in O'Brien because it would provide the convenience and accuracy of passive identification monitoring without user interaction.

The references fail to disclose substantially simultaneously reading the RFID tags. However, this feature is well known in the art as taught in Issacman (col. 7, last paragraph). In light of this teaching, it would have been obvious to a skilled artisan to readily recognize using a tag reader with ability to read multiple tags substantially simultaneously as in Issacman's in the combined system of Engelson and O'Brien because it would be advantageous and desirable to read several tags at the same time.

Claim 2:

The Engelson system has a memory coupled to the processor 80 for storing data associated with patient. See fig. 2.

Claim 3:

The processor 80 in Engelson's system compares the product identifiers from the data obtain from the RFID tags with product identifiers from the data associated with the patient. See col. 7 line 42 to col. 8 line 30.

Claim 4:

The product identifiers used in Engelson's is one of the product names and dosages. Col. 13, lines 3-21.

Claims 5 and 6:

Engelson's system includes an output device, namely, a display 84, and wherein processor 80 controls and activates the display to display mismatch notification. Col. 13, line 49 to col. 14 line 3.

Claim 7:

The output device in the Engelson system also includes an audio indicator. Col. 13, lines 49-60.

Claim 8:

In Engelson's system the RF wristband of a patient is configured to be read as the patient to through the entrance or exits the patient's room or treatment area. See col. 16, lines 5-16.

Claims 9 and 10:

None of the reference discloses a read pad and an antenna in the read pad. However, it would have been obvious to one skilled in the art to use a read pad in the Engelson's system because the reference suggest to mount the reader at a fixed location, thus, one skilled in the art would have placed a read pad with an antenna wherein the reader is mounted since a read pad is convenient to use. Furthermore, lacking any criticality as to why a read pad must be use, how it would produce any unexpected result or solve any stated problem, it appears that the reader in the combined system would be functionally equivalent of the claimed read pad.

Claims 30 and 31:

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The rejection of claims 30 and 31 recites the rejection of claims 1 and 2, except they are method claims.

Claim 32:

The identifying step in Engelson's comprises accessing a database to obtain data associated with the medical products based upon the data obtained from the RFID tags. See col. 13, last paragraph.

Claim 33:

In Engelson's system, the data obtained from the RFID includes location identifiers. See col. 6 lines 39-46.

Claim 34:

The steps in Engelson's method inherently includes verifying that the patient is intended to receive the plurality of medical products by comparing the data obtained from the RFID tags with the data associated with the patient; that is, the system compares the patient's information and medication information.

Claim 35:

The Engelson system includes an RFID tag for uniquely identifying a patient intended to receive a medical product. See col. 15, line 57 to col. 16, line 31.

Claim 36:

The rejection of claim 36 recites the rejection of claim 8, except it is a method claim.

Claims 37:

The doorway in Engelson's is the entrance to a patient's room.

Claim 38:

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In one embodiment a pharmacy is the environment wherein the system is used. See fig.

2. Thus, one skilled in the art would have readily recognized applying the same concept of medical administering in the patient room to the pharmacy environment to ensure accuracy of drug dispensing.

Claims 39:

Referring to figs. 1-5, Engelson et al. (hereinafter as Engelson) discloses an apparatus for monitoring administration of medical products to a patient, each of the medical products comprising a bar code tag 182 for storing data related to the respective medical product, the apparatus comprising:

- c. A reader 90 for reading bar code tags associated with a plurality of medical products placed in close proximity to the reader to obtain the data stored in the RFID tags;
- d. A processor 80 coupled to the reader for processing data obtained from the RFID tags to identify the medical products.

Though the tags in Engelson are not RFID tags, the reference does suggest the use of RFID tags in the example shown in fig. 16 and col. 15 lines 57 to col. 16, line 38. Furthermore, the use of RFID tags and RFID readers in medical administration is well known in the art as taught in O'Brien. See fig. 6 and col. 6, lines 4-19. Therefore, it would have been obvious to one skilled in the art to use RFID tags in the Engelson's system as suggested by the reference itself and as taught in O'Brien because it would provide the convenience and accuracy of passive identification monitoring without user interaction.

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Regarding the claimed reader comprising an antenna mounted in the entrance to the patient's room, the antenna configured to read the tags associated with the medical products when the medical products pass through the entrance, the Engelson reference discloses mounting the reader at then entrance into a patient's room to detect the identity and location of the patient. See col. 15, line 57 to col. 16 line 15. Though the reference is silent about detecting the medical products as it passes the entrance of the patient's room, it would have been obvious to one skilled in the art to have readily recognized the desirability of modifying the Engelson system so that the transponder would also read the tag on the medical products because it is suggested in the reference that the use of a barcode reader be eliminated.

Claim 40:

Display 84 in Engelson is coupled to the processor 80 and processor 80 controls the display 84 to display the identified medical products. Fig. 2.

Claim 41:

Engelson further discloses a network interface 10 (see figs. 1-3) to the processor 30, and wherein the processor is configured for transmitting data obtained from the tags using the network interface. See fig. 2 and col. 6, lines 13-35.

Claim 42:

Processor 80 in Engelson's system is configured for receiving a notification via network interface, in response to the transmission, indicating whether to administer the identified medical products. See col. 13, last paragraph.

Claim 43:

The Engelson system comprises display 84, coupled to processor 80, and wherein the processor is configured for displaying the received notification on the display. Col. 13, last paragraph.

Claim 44:

An output device, display 50, is coupled to the processor 30, and wherein the processor 30 activates the output device when the received notification indicates that the identified medical products should not be administered. Col. 13, last paragraph.

Claim 45:

The output device in Engelson's system includes least one of a light indicator and an audio indicator. Col. 13, last paragraph.

Claims 46-52:

The rejection of claims 46-52 recites the rejection of claims 39-45. Regarding the claimed substantially simultaneous reading a plurality of the tags associated with the medical products, Engelson and O'Brien references fail to disclose substantially simultaneously reading the RFID tags. However, this feature is well known in the art as taught in Issacman (col. 7, last paragraph). In light of this teaching, it would have been obvious to a skilled artisan to readily recognize using a tag reader with ability to read multiple tags substantially simultaneously as in Issacman's in the combined system of Engelson and O'Brien because it would be advantageous and desirable to read several tags at the same time.

Claim 53:

Regarding the claimed reader comprising an antenna mounted in the entrance to the patient's room, the antenna configured to read the tags associated with the medical products

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when the medical products pass through the entrance, the Engelson reference discloses mounting the reader at then entrance into a patient's room to detect the identity and location of the patient. See col. 15, line 57 to col. 16 line 15. Though the reference is silent about detecting the medical products as it passes the entrance of the patient's room, it would have been obvious to one skilled in the art to have readily recognized the desirability of modifying the Engelson system so that the transponder would also read the tag on the medical products because it is suggested in the reference that the use of a barcode reader be eliminated.

Claim 54:

None of the reference discloses a read pad and an antenna in the read pad. However, it would have been obvious to one skilled in the art to use a read pad in the Engelson's system because the reference suggest to mount the reader at a fixed location, thus, one skilled in the art would have placed a read pad with an antenna wherein the reader is mounted since a read pad is convenient to use. Furthermore, lacking any criticality as to why a read pad must be use, how it would produce any unexpected result or solve any stated problem, it appears that the reader in the combined system would be functionally equivalent of the claimed read pad.

Claim 55:

The rejection of claim 55 recites the rejection of claim 39 except it is a method claim.

Claim 56:

The verifying step disclosed in Engelson's further comprises comparing a product identifier from the data obtained from the tag with a product identifier from the data associated with the patient. See col. 13, last paragraph.

Claim 57:

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The product identifiers used in Engelson's is one of the product names and dosages. Col. 13, lines 3-21.

Claim 58:

The method disclosed in the Engelson reference further comprises displaying a mismatch notification when there is a mismatch between the data obtained from the RFID tag and the data associated with the patient. col. 13, last paragraph.

Claim 59:

Engelson's method further comprises activating an output device when there is a mismatch between the data obtained from the RFID tag and the data associated with the patient. Col. 13, lines 3-21.

Claim 60:

The rejection of claim 60 recites the rejection of claim 54, except it is a method claim.

Claim 61:

Engelson discloses recording all medical administering events including both medication delivered to a patient (col. 10, line 44 to col. 11, line 13), namely, matched conditions, and alerts (col. 9, lines 25-lines 52), or mismatched conditions

Claim 62:

Engelson and O'Brien references fail to disclose substantially simultaneously reading the RFID tags. However, this feature is well known in the art as taught in Issacman (col. 7, last paragraph). In light of this teaching, it would have been obvious to a skilled artisan to readily recognize using a tag reader with ability to read multiple tags substantially simultaneously as in

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Issacman's in the combined system of Engelson and O'Brien because it would be advantageous and desirable to read several tags at the same time.

Claims 63-69:

The rejection of claims 63-69 recites the same rejection of claims 1, 3, 4-9, respectively, except they are method claims.

Claims 64-67:

The rejection of claim 64-67 recites the same rejection of claims 3-6, except they are method claims.

Claim 70:

The rejection of claim 70 recites the same rejection of 61, except it is a method claim.

Response to Applicant's arguments

4. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Julie Lieu', with a long, sweeping horizontal stroke extending to the right.

Julie Lieu
Primary Examiner
Art Unit 2612

Jan 16, 08